

The Honorable Barbara J. Rothstein

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT TACOMA

WILLIAM T. WHITMAN, individually and
on behalf of all others similarly situated,

Plaintiffs,

vs.

STATE FARM LIFE INSURANCE
COMPANY, an Illinois corporation,

Defendant.

NO. 3:19-cv-06025-BJR

DEFENDANT’S MOTION FOR LEAVE TO
FILE SUPPLEMENTAL BRIEFING

I. MOTION FOR LEAVE TO FILE SUPPLEMENTAL BRIEFING

Eight days after State Farm filed its opposition to Plaintiff’s motion for class certification, the Ninth Circuit issued an important new decision, *Olean Wholesale Grocery Coop., Inc., v. Bumble Bee Foods, LLC*, ___ F.3d ___, 2021 WL 1257845 (9th Cir. Apr. 6, 2021), that bears directly on the class certification issues here. The new decision articulates for the first time the Ninth Circuit’s statement of the proper burden of proof at the class certification stage. It also sets out a roadmap for district courts within the Circuit to guide their analytical responsibilities and

DEFENDANT’S MOTION FOR LEAVE TO
FILE SUPPLEMENTAL BRIEFING –
NO. 3:19-cv-06025-BJR

- 1 -

Betts
Patterson
Mines
One Convention Place
Suite 1400
701 Pike Street
Seattle, Washington 98101-3927
(206) 292-9988

1 decisional duties under Rule 23 and refines the role of predominance in class certification in this
 2 Circuit. Because *Olean Wholesale* sets out important guidelines for many of the issues raised by
 3 Plaintiff's motion, State Farm respectfully requests leave to file a supplemental brief addressing
 4 the *Olean Wholesale* decision.

5 Although Plaintiff's reply cited *Olean* (Dkt. 110 at 11), State Farm has not had the
 6 opportunity to address it at all. To ensure that the Court has the benefit of full briefing on the
 7 multiple new guidelines set out by the Ninth Circuit in its decision, State Farm seeks leave to file
 8 a 10-page supplemental brief limited to discussing *Olean Wholesale* and its implications on the
 9 pending class certification issues. No delay in the proceedings will occur because State Farm is
 10 prepared to file its supplemental brief on Monday, April 19, 2021. State Farm attaches a
 11 proposed order.
 12

13 II. MEET AND CONFER CERTIFICATION

14 On April 12, 2021, State Farm and Plaintiff met and conferred by telephone about State
 15 Farm's request to file supplemental briefing on *Olean Wholesale*. Plaintiff's counsel opposed
 16 any supplemental briefing on the new decision. Plaintiff's counsel also refused State Farm's
 17 invitation to address this opposed supplemental-briefing motion on an expedited basis.
 18
 19
 20
 21
 22
 23
 24
 25

1 DATED this 13th day of April, 2021.

2 BETTS, PATTERSON & MINES, P.S.

3
4 By /s Joseph D. Hampton

5 By /s Kara A. Tredway

6 Joseph D. Hampton, WSBA #15297

7 Kara A. Tredway, WSBA #44984

8 Betts, Patterson & Mines, P.S.

9 One Convention Place, Suite 1400

10 701 Pike Street

11 Seattle WA 98101-3927

12 Telephone: (206) 292-9988

13 Facsimile: (206) 343-7053

14 E-mail: jhampton@bpmlaw.com

15 E-mail: ktredway@bpmlaw.com

16 STINSON LLP

17 By /s Todd Noteboom, pro hac vice

18 Todd Noteboom, pro hac vice

19 Stinson LLP

20 50 South Sixth Street, Suite 2600

21 Minneapolis, MN 55402

22 Telephone: 612-335-1894

23 E mail: todd.noteboom@stinson.com

24 STINSON LLP

25 By /s Jeremy A. Root, pro hac vice

Jeremy A. Root, pro hac vice

Stinson LLP

50 South Sixth Street, Suite 2600

Minneapolis, MN 55402

Telephone: 612-335-1894

E mail: jeremy.root@stinson.com

ALSTON & BIRD

By /s/ Cari Dawson, pro hac vice

By /s/ Tiffany Powers, pro hac vice

Cari Dawson, *pro hac vice*

Tiffany Powers, *pro hac vice*

Alston & Bird

One Atlantic Center

1201 West Peachtree Street, Suite 4900

Atlanta, GA 30309-3424

Telephone: 404-881-7000

Fax: 404-881-7777

E mail: tiffany.powers@alston.com

E mail: cari.dawson@alston.com

GIBSON DUNN

By /s/ Deborah L. Stein, pro hac vice

Deborah L. Stein, *pro hac vice*

Gibson Dunn

333 South Grand Avenue

Los Angeles, CA 90071-3197

Telephone: 213-229-7164

Facsimile: 213-229-6164

E mail: dstein@gibsondunn.com

Attorneys for Defendant State Farm Life
Insurance Company

CERTIFICATE OF SERVICE

I, Joseph D. Hampton, hereby certify that on April 13, 2021, I electronically filed the following:

- **Defendant's Motion for Leave to File Supplemental Briefing; and**
- **Certificate of Service;**

with the Court using the CM/ECF system which will send notification of such filing to the following:

Counsel for Plaintiff Whitman:

Kim D. Stephens
Rebecca Luise Solomon
Tousley Brain Stephens
1700 Seventh Avenue, Suite 2200
Seattle, WA 98101
206-682-5600
E-mail: kstephens@tousley.com
E-mail: rsolomon@tousley.com

Counsel for Plaintiff Whitman:

John J Schirger, *pro hac vice*
Joseph M Feierabend, *pro hac vice*
Miller Schirger LLC
4520 Main Street, Suite 1570
Kansas City, MO 64111
E-mail: jschirger@millerschirger.com
E-mail: jfeierabend@millerschirger.com

Counsel for Plaintiff Whitman:

Ethan M Lange, *pro hac vice*
Matthew W. Lytle, *pro hac vice*
Norman E. Siegel, *pro hac vice*
Lindsay T. Perkins, *pro hac vice*
Stueve Siegel Hanson
460 Nichols Road, Suite 200
Kansas City, MO 64112
E-mail: lange@stuevesiegel.com
E-mail: mlytle@millerschirger.com
E-mail: siegel@stuevesiegel.com
E-mail: perkins@stuevesiegel.com

Counsel for Plaintiff Whitman:

Stephen R Bassar, *pro hac vice*
Barrack Rodos & Bacine
600 W. Broadway, Suite 900
San Diego, CA 92101
E-mail: sbassar@barrack.com

Counsel for Plaintiff Whitman:

Joseph Gentile (*pro hac vice* forthcoming)
Ronen Sarraf (*pro hac vice* forthcoming)
14 Bond Street #212
Great Neck, NY 11021
E-mail: joseph@sarrafgentile.com
E-mail: ronen@sarrafgentile.com

1 Dated this 13th day of April, 2021.

2 BETTS, PATTERSON & MINES, P.S.

3
4 By /s Joseph D. Hampton

5 By /s Kara A. Tredway

6 Joseph D. Hampton, WSBA #15297

Kara A. Tredway, WSBA #44984

7 Betts, Patterson & Mines, P.S.

8 One Convention Place, Suite 1400

9 701 Pike Street

10 Seattle WA 98101-3927

11 Telephone: (206) 292-9988

12 Facsimile: (206) 343-7053

13 E-mail: jhampton@bpmlaw.com

14 E-mail: ktredway@bpmlaw.com

15 STINSON LLP

16 By /s Todd A. Noteboom (pro hac vice)

17 Todd A. Noteboom, *pro hac vice*

18 Stinson LLP

19 50 South Sixth Street, Suite 2600

20 Minneapolis, MN 55402

21 Telephone: 612-335-1894

22 E mail: todd.noteboom@stinson.com

23 STINSON LLP

24 By /s Jeremy A. Root (pro hac vice)

25 Jeremy A. Root, *pro hac vice*

Stinson LLP

230 W. McCarty Street

Jefferson City, MO 65101

Telephone: 573-636-6263

E mail: jeremy.root@stinson.com

ALSTON & BIRD

By /s/ Tiffany Powers (pro hac vice)

By /s/ Cari K. Dawson (pro hac vice)

Tiffany Powers, *pro hac vice*

Cari K. Dawson, *pro hac vice*

Alston & Bird

One Atlantic Center

1201 West Peachtree Street, Suite 4900

Atlanta, GA 30309-3424

Telephone: 404-881-7000

E-mail: tiffany.powers@alston.com

E-mail: cari.dawson@alston.com

GIBSON DUNN

By /s/ Deborah L. Stein, pro hac vice

Deborah L. Stein, *pro hac vice*

Gibson Dunn

333 South Grand Avenue

Los Angeles, CA 90071-3197

Telephone: 213-229-7164

Facsimile: 213-229-6164

E mail: dstein@gibsondunn.com

Attorneys for Defendant State Farm Life
Insurance Company